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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/838,486	04/07/1997	STEINUNN BAEKKESKOV	02307U-3122	8923

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04/21/2005

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EXAMINER

EWOLDT, GERALD R

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
After the Filing of an Appeal Brief

Application No.

08/838,486

Examiner

G. R. Ewoldt, Ph.D.

Applicant(s)

BAEKESKOV ET AL.

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 13 December 2004 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☒ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: Rejections maintained for reasons of record. The DIAMYD company press release merely touts the company's undisclosed product for the treatment of a small subset of type II diabetes patients. The rejected invention of the instant claims comprises a method of inhibiting IDDM (type I diabetes) by administering GAD. Note that the DIAMYD product is only disclosed as "GAD-based", thus, it is unclear that the product of the press release is encompassed by, or even related to, the product of the instant claims. Regarding the treatment of IDDM (the diabetes of the instant specification), the document merely states that "future studies" will address whether or not the undisclosed product could be used to prevent the development of IDDM. Clearly then, the document does not enable any treatment with GAD and just as clearly indicates that, some 14 years post-filing, the invention of the instant claims still is not enabled; said product still comprises no more than an idea to be studied.


G.R. EWOLDT, PH.D.
PRIMARY EXAMINER